

Message Text

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ORIGIN DLOS-06

INFO OCT-01 IO-13 ISO-00 EB-07 OES-06 L-03 SS-15 SP-02

SSO-00 CCO-00 NSC-05 NSCE-00 /058 R

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S E C R E T STATE 196813 TOSEC 200163

FOR THE SECRETARY FROM MAW AND LEARSON

E.O. 11652: GDS

TAGS: OVIP, (KISSINGER, HENRY A.), PLOS

SUBJECT: THE QUOTA ISSUE - LOS

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REF: YOUR MEETING WITH SECRETARY SIMON ON AUGUST 2, 1976.

1. ISSUE. THE CONCEPT OF A STATE QUOTA WAS FIRST PROPOSED AND CONTINUES TO BE ADVOCATED BY SOME OF THE HIGHLY INDUSTRIALIZED COUNTRIES WHICH HOPE TO BE THE CHIEF COMPETITORS OF UNITED STATES OCEAN MINING VENTURES, QUOTA PROPOSALS HAVE TAKEN ONE OR A COMBINATION OF THREE FORMS: (1) AN ABSOLUTE LIMIT PER STATE (ORIGINAL SOVIET PROPOSAL); (2) ANTI-DENSITY (LIMITATIONS ON OVERALL AREAS ALLOTTED TO COUNTRIES); (3) ANTI-DOMINANT (UPPER LIMIT FOR LEADING
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COUNTRIES, USUALLY BASED ON PERCENT OF TOTAL SEABED PRODUCTION).

2. EXCEPT FOR THE FEDERAL REPUBLIC OF GERMANY, WHICH AT

U.S. URGING CONTINUES TO OPPOSE THE QUOTA WITHIN THE EUROPEAN COMMUNITY, THE U.S. STANDS VIRTUALLY ALONE IN ITS ABSOLUTE REJECTION OF THE CONCEPT. THIS ISOLATION IS DUE TO THE PREMINENCE OF AMERICAN TECHNOLOGY IN THE OCEAN MINING AREA. SOME INDUSTRIALIZED COUNTRIES ARE CONCERNED THAT OUR TECHNOLOGICAL LEAD IN THE DEEP SEABED WILL

ENABLE U.S. COMPANIES TO EITHER ACQUIRE RIGHTS TO MINE ALL OF THE GOOD QUALITY SEABED DEPOSITS IN THE EARLY YEARS OF OPERATION OR CAPTURE MARKETS SO AS TO EXERCISE A VIRTUAL MONOPOLY OVER OCEAN MINING. WE ARE CONVINCED, ON THE CONTRARY, THAT THE NUMBER OF DEEP SEABED MINERAL DEPOSITS IS SUFFICIENTLY LARGE TO PERMIT EXPLOITATION BY AS MANY STATES AS ARE CAPABLE OF IT; THE LIMITATION ON SEABED PRODUCTION LEVELS WILL BE THE MARKET AND NOT THE AVAILABILITY OF ATTRACTIVE DEPOSITS.

3. ATTITUDES OF QUOTA ADVOCATES. OTHER COUNTRIES, SUCH AS FRANCE AND THE USSR, APPEAR TO VIEW THE QUOTA SYSTEM AS A MEANS OF LIMITING OVERALL SEABED PRODUCTION, THEREBY PROTECTING THEIR DOMESTIC NICKEL OPERATIONS. (IN THE CASE OF FRANCE, EXISTING OPERATIONS IN NEW CALEDONIA; AND IN THE CASE OF THE USSR, THE POTENTIAL FOR BECOMING A MAJOR NICKEL EXPORTER.) AT LEAST FOR THE USSR AND FRANCE, SUPPORT FOR THE QUOTA MAY ALSO BE POLITICALLY MOTIVATED. THE USSR, WHICH HAS NO DIRECT NEED FOR DEEP OCEAN MINERALS, MAY WISH TO AVOID COMPETITION WITH A UNITED STATES THAT HAS ACQUIRED A DOMINANT POSITION IN OCEAN MINING IN ORDER TO MAINTAIN ITS POSITION AS A MARITIME EQUAL. THE HEAD OF THE FRENCH DELEGATION SAID FRANCE WOULD NEVER AGREE TO US DOMINATION OF OCEAN MINING. JAPAN HAS ALSO INDICATED IT COULD SUPPORT QUOTA PROVISIONS IN THE CASE OF COMPETITIVE APPLICATIONS FOR THE SAME MINE SITES, WHICH GIVE PREFERENCE TO COUNTRIES HEAVILY DEPENDENT ON IMPORTS. THE UK'S CURRENT POSITION IS TO PLAY A MEDIATING ROLE BETWEEN THE US AND THE OTHERS.

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4. US POSITION. UNITED STATES OPPOSITION TO A QUOTA SYSTEM IS FOUNDED ON A NUMBER OF FACTORS. PRINCIPAL AMONG THESE IS THE POSSIBILITY THAT A STATE QUOTA WILL BE USED TO LIMIT OVERALL SEABED PRODUCTION. OUR SUCCESS IN PREVENTING THE AUTHORITY FROM EXERCISING DIRECT PRICE AND PRODUCTION CONTROL POWERS COULD BE NEGATED BY IMPOSITION OF CONTROLS ON A STATE-BY-STATE BASIS. SECOND, IT IS CLEAR THAT THE EFFECT OF A QUOTA THAT LIMITED DESIRED DIRECT INVESTMENT BY US COMPANIES UNDER US SPONSORSHIP WOULD BE TO FORCE US OCEAN MINING TECHNOLOGY AND CAPITAL ABROAD BY ARTIFICIALLY LIMITING THE AMOUNT OF INVESTMENT IN OCEAN MINING ACTIVITIES BY COMPANIES UNDER DIRECT US SPONSORSHIP. SUCH A RESULT, WHILE NOT LIMITING GLOBAL

PRODUCTION, DEPRIVES THE US OF ECONOMIC BENEFITS IT WOULD OTHERWISE ACQUIRE.

5. CURRENT STATUS. THE GROUP OF FIVE HEADS OF DELEGATION (US, USSR, UK, FRANCE, AND JAPAN) MEETING HELD IN LONDON JUNE 21-24 MADE NO SUBSTANTIVE PROGRESS ON THE QUOTA QUESTION. DURING THE LONDON MEETING, THE FRENCH DISTRIBUTED A NEW PROPOSAL FOR A QUOTA, WHICH PROVIDES FOR BOTH AN ANTI-DENSITY OF AREAL RESTRICTION LIMITING ANY STATE TO 20 PERCENT OF A DEFINED SEGMENT OF DEEP SEABED AREA, AS WELL AS A LIMITATION ON ANY STATE'S SEABED PRODUCTION AT ANY ONE TIME TO 35 PERCENT OF THE TOTAL. THE SOVIETS WELCOMED THE FRENCH PROPOSAL, NOTING FAVORABLY THE DUAL APPROACH LIMITING BOTH AREA AND PRODUCTION BUT POINTING OUT THAT THEY FOUND THE ANTI-DENSITY FEATURE OF THE PROPOSAL MOST INTERESTING. HOWEVER, THE SOVIETS INDICATED THAT THE 20 PERCENT FIGURE WAS PROBABLY TOO HIGH. THE US MAINTAINED ITS FIRM OPPOSITION TO ANY FORM OF STATE QUOTA OR ANTI-MONOPOLY PROVISION, INDICATING OUR BELIEF THAT A TREATY CONTAINING SUCH A PROVISION WOULD NOT BE RATIFIED BY THE US CONGRESS.

6. THE SOVIETS, WHILE MAINTAINING THE STRENGTH OF THEIR SUPPORT FOR A QUOTA, SHOWED GREATER WILLINGNESS TO DISCUSS ALTERNATIVE APPROACHES THAN HAS PREVIOUSLY BEEN WITNESSED. THEY INDICATED THAT THEY WERE SEEKING A NEGOTIATED SOLUTION TO THIS PROBLEM WITHIN THE GROUP OF FIVE. NEVERTHELESS, IT IS NOW CLEAR THAT THE SOVIETS
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HAVE BEEN ACTIVELY LOBBYING FOR DEVELOPING COUNTRY SUPPORT ON THE QUOTA.

7. POTENTIAL INVOLVEMENT OF DEVELOPING COUNTRIES. WE UNDERSTAND THAT THE SOVIETS HAVE PERSUADED BOTH MEXICO AND INDIA THAT A STATE QUOTA WOULD ASSIST THESE COUNTRIES IN ATTRACTING SEABED MINING INVESTMENTS BY FORCING CAPITAL AND TECHNOLOGY OUT OF INDUSTRIALIZED COUNTRIES THAT HAVE USED UP THEIR QUOTA. THE THRUST OF THE SOVIET APPEAL TO THESE COUNTRIES APPEARS TO BE TO PLAY UPON THEIR DESIRE TO SEE THE ENTERPRISE BECOME OPERATIONAL AT AN EARLY TIME. THEIR ARGUMENT IS THAT SOME COMPETITIVE ADVANTAGE WOULD BE GIVEN TO THE ENTERPRISE BY GUARANTEEING THAT ALL BANKED OR RESERVED MINE SITES ARE EXPLOITED BY THE AUTHORITY AND NOT AVAILABLE TO DEVELOPING COUNTRIES, AS IS PRESENTLY PROVIDED IN THE REVISED SINGLE NEGOTIATING TEXT (RSNT). IF ONLY THE ENTERPRISE WERE TO HAVE ACCESS TO BANKED MINE SITES, AND THE GROUP OF 77 MAY ADOPT THIS POSITION IN THEIR DESIRE TO ASSIST THE ENTERPRISE, THOSE DEVELOPING COUNTRIES DESIRING TO GET INTO THE SEABED MINING BUSINESS MAY SEE A SERIOUS INTEREST IN A STATE QUOTA SYSTEM OR ANTI-MONOPOLY APPROACH.

8. THE MEXICANS INFORMED US IN MEXICO CITY LAST WEEK THAT THEY HAD COMMITTED THEMSELVES TO THE SOVIETS TO SUPPORT A STATE QUOTA NOT ONLY BECAUSE THEY WANT TO SEE THE ENTERPRISE BECOME FUNCTIONAL, BUT ALSO BECAUSE THEY WERE CONCERNED THAT DEVELOPING COUNTRY APPLICANTS FOR BANKED MINE SITES WOULD SIMPLY BE FLAGS OF CONVENIENCE OR FRONTS FOR MULTINATIONAL CORPORATIONS. WE SUGGESTED THAT THE LATTER CONCERN MIGHT BE ALLEVIATED BY THE PROVISION ALREADY WITHIN THE REVISED SNT THAT REQUIRES THAT DEVELOPING COUNTRY APPLICANTS RECEIVE SIGNIFICANT BENEFITS FROM EXPLOITATION OF BANKED MINE SITES. THE MEXICANS SEEMED PREPARED TO RECONSIDER THEIR REAL INTEREST IN SUPPORTING THE QUOTA, BUT INDICATED SOME HESITANCY TO INFORM THE SOVIETS OF A WITHDRAWAL OF THEIR COMMITMENT.

9. INDIAN SUPPORT FOR A QUOTA MAY BE MORE DIFFICULT TO DEAL WITH BECAUSE OF THEIR IMMINENT INTENTION TO PROPOSE
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TO THE GROUP OF 77 "STAGGERED" OR "ROTATIONAL" ACCESS. THIS PROPOSAL IS A SERIOUS ATTEMPT TO GET THE ENTERPRISE INTO BUSINESS BY FORCING PRIVATE CAPITAL AND TECHNOLOGY TO GO TO THE ENTERPRISE THROUGH RESTRICTING AUTOMATIC ACCESS. SUCH A STAGGERED ACCESS SYSTEM REQUIRES THAT THE ENTERPRISE HAVE EXCLUSIVE RIGHTS TO BANKED MINE SITES AND THEREFORE MAY ENCOURAGE THOSE DEVELOPING COUNTRIES WHICH SEE THEMSELVES AS POTENTIAL OCEAN MINERS (E.G., INDIA, MEXICO, BRAZIL) TO SUPPORT A STATE QUOTA.

10. IN THE PAST, THE DEVELOPING COUNTRIES HAVE NOT TAKEN A POSITION ON THE QUOTA ISSUE, DEMONSTRATING A DESIRE TO STAY OUT OF WHAT THEY PERCEIVED TO BE ESSENTIALLY A MAJOR INDUSTRIALIZED COUNTRY DISPUTE. IF AN ACCOMMODATION ON LDC DEMANDS TO ESTABLISH ARRANGEMENTS ENSURING THAT THE ENTERPRISE BECOME OPERATIONAL AT AN EARLY DATE INCLUDES REMOVING THE PREFERENTIAL RIGHT OF ACCESS TO BANKED MINE SITES FOR LDCS, AS IS PROPOSED BY INDIA, THOSE LDCS WHICH ARE INTERESTED IN SEABED MINING MAY BEGIN TO PRESSURE THE GROUP OF 77 TO SUPPORT A STATE QUOTA POSITION. WE CANNOT PREDICT AT THIS STAGE WHAT POSITION THE GROUP OF 77 WILL ADOPT IN THIS EVENT. ON THE OTHER HAND, IF AN ACCOMMODATION ON THE ENTERPRISE "START-UP" PROBLEM DOES NOT INCLUDE REMOVING PREFERENTIAL LDC ACCESS TO BANKED MINE SITES, IT MAY BE LESS DIFFICULT FOR US TO CONVINCE THE DEVELOPING COUNTRIES LEADERSHIP NOT TO BECOME INVOLVED IN THE STATE QUOTA PROBLEM.

11. US STRATEGY. A THOROUGH REVIEW OF ALL CURRENT PROPOSALS FOR A STATE QUOTA DEMONSTRATES THAT UNDER ANY

OF THEM, US ACCESS TO DEEP SEABED RESOURCES IS UNACCEPTABLY RESTRICTED. THUS, THE UNITED STATES WILL CONTINUE TO STRONGLY OPPOSE QUOTA OR ANTI-MONOPOLY PROPOSAL.

12. BASED ON THE INTERSESSIONAL GROUP OF FIVE HEADS OF DELEGATION MEETING, WE BELIEVE IT IS CLEAR THAT THE BOTTOM LINE TO THE SOVIET AND FRENCH POSITIONS CONTINUES TO BE INSISTENCE ON SOME FORM OF QUOTA, ALTHOUGH THERE ARE SIGNS THAT THEY WILL BE MORE FLEXIBLE ON THE PRECISE SECRET

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COMMENT. WE DO NOT BELIEVE THAT EITHER IS WILLING TO COMPLETELY CONCEDE THE ISSUE TO THE UNITED STATES, BUT THEIR NEWLY SHOWN NEGOTIATING ATTITUDE MAY INDICATE THAT, IN THE LAST ANALYSIS, THEY WILL ACCEPT SOME COSMETIC FORMULA THAT HAS NO PRACTICAL EFFECT. IN OUR VIEW, HOWEVER, THE ISSUE IS UNLIKELY TO BE RESOLVED BY CONTINUED NEGOTIATION WITHIN THE GROUP OF FIVE. THE CLEAR IMPLICATION OF THE SOVIET LOBBYING IN INDIA AND MEXICO IS THAT THEY AT LEAST ARE UNWILLING TO RESTRICT DISCUSSION OF THE ISSUE TO THE HIGHLY INDUSTRIALIZED COUNTRIES.

13. WE ARE AT PRESENT FOLLOWING A TWO-PRONGED STRATEGY IN OPPOSING THE STATE QUOTA:

-- FIRST, WE WILL MAINTAIN OUR HARD LINE STANCE VIS-A-VIS THE QUOTA PROPONENTS, ACTIVELY PRESSURING THEM AT THE HIGHEST LEVELS OF THEIR GOVERNMENTS TO DROP THEIR INSISTENCE ON ANY FORM OF STATE-BY-STATE LIMITATION ON ACCESS TO DEEP SEABED RESOURCES. IN THIS CONNECTION, THE SECRETARY AT AN APPROPRIATE MOMENT CAN PERSONALLY BECOME FURTHER INVOLVED IN EXPLAINING TO FRANCE AND THE USSR OUR UNEQUIVOCAL OPPOSITION TO THEIR PROPOSALS. DEPENDING UPON HOW QUICKLY THE ISSUE IS RAISED WITHIN THE GROUP OF FIVE, WE MAY BE SOON PROPOSING THAT THE SECRETARY PERSONALLY INFORM ABASSADOR DOBRYNIN OF OUR STRONG VIEWS ON THE QUOTA.

-- SECOND, WE SHOULD CONTINUE TO DEFLECT SOVIET EFFORTS TO WIN DEVELOPING COUNTRY SUPPORT FOR THE QUOTA. THE US DELEGATION WILL INFORM THOSE DEVELOPING COUNTRIES WHICH SHOW SIGNS OF BECOMING INVOLVED IN THE DISPUTE OF OUR CONVICTION THAT INCLUSION OF PROVISIONS IN THE TREATY WHICH EFFECTIVELY LIMIT SEABED PRODUCTION OR US PARTICIPATION IN DEEP SEABED MINING OPERATIONS WILL NOT BE ACCEPTABLE TO THE UNITED STATES.

14. THE OBJECTIVE OF THIS TWO-PRING STRATEGY IS TO BOTH CONVINCE THE SOVIETS AND THE FRENCH THAT WE WILL NOT COMPROMISE ON THE QUOTA AND TO DEMONSTRATE TO THEM

THAT THE DEVELOPING COUNTRIES WILL NOT SIDE AGAINST THE
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UNITED STATES ON ANY ESSENTIALLY INDUSTRIALIZED COUNTRY
ISSUE, WHEN OUR PARTICIPATION IN THE SEABED REGIME IS
IN FACT THE SINA QUA NON OF ITS SUCESS.

15. CLEARANCES: S/P: MR. BLANEY; DLOS: AMBASSADOR
BREWSTER; USDEL: AMBASSADOR LEARSON; L: MR LEIGH; OES:
MR. BUSBY; EB: MR. WEINGARTEN.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 15 SEP 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TOSEC, POLICIES, SEABED, EXPLOITATION (NATURAL RESOURCES)
Control Number: n/a
Copy: SINGLE
Draft Date: 07 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE196813
Document Source: ADS
Document Unique ID: 00
Drafter: DLOS STAFF/LOS DEL
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Film Number: D760305-0377
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197608103/baaaeprr.tel
Line Count: 287
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN DLOS
Original Classification: SECRET
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: SECRET
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 19 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 MAY 2004 by buchanta0>; APPROVED <08 SEP 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: THE QUOTA ISSUE - LOS
TAGS: OVIP, PLOS, EMIN, US, UN, (KISSINGER, HENRY A), (SIMON, WILLIAM E)
To: SECRETARY INFO USUN N Y
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006